THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.23062 OF 2005

DATED:26.10.2005

Between:

D. Seshagiri Rao

…Petitioner

And

Municipal Corporation of Hyderabad

Rep. by its Commissioner, Tank Bund,

Hyderabad and others

…Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.23062 OF 2005

ORDER:

The petitioner is owner of house bearing H.No.496, situated at Road No.36 of Jubilee Hills. The Municipal Corporation of Hyderabad (MCH) issued a letter informing him that MCH has taken up the widening of the road to 100 feet, that an extent of 93.33 Sq.yards of petitioner's premises would be affected and the petitioner was requested to give consent in writing to handover advance possession. The petitioner asserts that he is not willing to give such consent nor he has to negotiate with MCH for parting with his land. He also alleges that the respondents and the other officials are taking steps to demolish the structure without even initiating any proceedings under the Land Acquisition Act, 1894. Therefore, he filed the present Writ Petition seeking a declaration that the action of the respondents in taking steps

to demolish the petitioner's premises and dispossessing him is illegal and arbitrary.

After getting instructions in the matter, the learned Standing Counsel for MCH submits that if the petitioner is not willing to give his consent, necessary action would be taken in accordance with Section 147 of the Hyderabad Municipal Corporation Act, 1955 (the Act, for short) for acquiring the land. The learned Counsel does not dispute that unless the petitioner is deprived of his property in accordance with due process of law, his right to enjoy the property cannot be denied.

Accordingly, the writ petition is disposed of observing that unless and until requisite proceedings under Section 147 of the Act are initiated, the petitioner's right to enjoy his property cannot be denied nor its officials can demolish the house of the petitioner, without notice.

The Writ Petition, with the above observations and directions, is disposed of. No costs.

_____

26.10.2005 (V.V.S.RAO, J)

bnr

Note: CC by 28.10.2005.

(B.O)

bnr